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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,152	07/31/2003	James F. Elman	86622AEK	2227

7590

12/07/2005

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EXAMINER

HON, SOW FUN

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 12/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/631,152	Applicant(s) ELMAN ET AL.	
	Examiner Sow-Fun Hon	Art Unit 1772	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: 20-21.
 Claim(s) objected to: 33.
 Claim(s) rejected: 1-19, 22-31 and 34.
 Claim(s) withdrawn from consideration: 32.

AFFIDAVIT OR OTHER EVIDENCE

8. ☒ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
 13. ☒ Other: Attachment to advisory action.

Advisory Action

1. The proposed amendment will not be entered because the new limitation of "do not have chromophores off of the backbone" to independent claim 1, raises new issues and/or search, and changes the scope of the dependent claims.
2. The declaration under Rule 132 will not be entered for two reasons. The first reason is that the only polymeric material used as Applicant's polymer is poly(4,4'-hexafluoroisopropylidene-bisphenol-co-4,4'-(2-norbornylidene) bisphenol) terephthalate-co-isophthalate, and not any of the others named by Applicant. Applicant has not demonstrated that any of the other polymers are also amorphous in terms of the narrowing definition of "does not show long-range order as measured by X-ray diffraction" as determined by Applicant in the affidavit dated 11/21/05, with reference to the absence of any distinct, sharp peaks in the intensity of the transmission X-ray diffraction data. The second reason is that the prior art polyimide, used by Applicant to demonstrate the difference in X-ray diffraction properties, is only that of US 5,344,916, which is cited as a prior art polyimide in the background, and does not include the polyimide used by US 5,750,641 in the various embodiments. The declaration is therefore not commensurate in scope with the entered claims, and not sufficient to overcome the rejections over US 5,750,641.
3. Applicant argues that '641 teaches a polymer which exhibits "in-plane orientation" which is the same descriptor as used in '916, and therefore [indicative of the presence of long range order] wherein the polymer of '641 is not amorphous.

Applicant is respectfully apprised that '641 teaches that when coated or cast as film, the polyimide presents an in-plane orientation (column 3, lines 29-32), not that the polyimide presents an in-plane orientation by itself. Applicant claims "an amorphous polymer having an out-of-plane-birefringence more negative than -0.01 " in independent claim 1, and discloses in the specification that the B layer is coated from a solution that contains a polymer that yields high negative birefringence that is more negative than -0.01 upon solvent coating (Applicant's specification, page 8, lines 1-3). Therefore, it is unclear whether the high negative birefringence of Applicant's polymer is inherent in the polymer itself, or only more negative than -0.01 upon solvent coating.

5. Applicant argues that the "off-normal" retardation of '641 (Ezzell) is not equivalent to an "out-of-plane" retardation because the formula to calculate the retardation appears to have an angularity dependence (column 5, line 39). Applicant is respectfully apprised that "out-of-plane" does constitute an angle in the geometrical sense. Therefore the "off-normal" 50 nm value recited by Ezzell is indicative that the out-of-plane retardation is greater than 20 nm.

6. Applicant argues that all the examples of Ezzell had $n_x=n_y$ and so were uniaxial, and therefore the in-plane retardation could not be said to be essential, especially at a value of at least 20 nm since it was omitted from all examples.

Applicant is respectfully apprised that Ezzell teaches that optional retarder layers which include uniaxially or biaxially-oriented films 34 and 35 may be provided with polymeric B layer (angularity enhancement layer 38, column 11, lines 20-35). Therefore the multilayer compensator of Ezzell is biaxial in the embodiment comprising the

Art Unit: 1772

biaxially-oriented retarder layers. An "off-normal" 50 nm value recited by Ezzell is indicative that the in-plane retardation can be greater than 20 nm.

Any inquiry concerning this communication should be directed to Sow-Fun Hon whose telephone number is (571)272-1492. The examiner can normally be reached Monday to Friday from 10:00 AM to 6:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (571)272-1498. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

S. Hon.

Sow-Fun Hon

12/02/05


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1/12

12/2/05